

BEFORE THE DIVISION OF INSURANCE

STATE OF COLORADO

FINAL AGENCY ORDER O-05-243

IN THE MATTER OF THE MARKET CONDUCT EXAMINATION OF FEDERAL INSURANCE COMPANY,

Respondent

THIS MATTER comes before the Colorado Commissioner of Insurance (the "Commissioner") as a result of a market conduct examination conducted by the Colorado Division of Insurance (the "Division") of Federal Insurance Company (the "Respondent"), pursuant to §§ 10-1-201 to 207, C.R.S. The Commissioner has considered and reviewed the market conduct examination report dated February 2, 2005 (the "Report"), relevant examiner work papers, all written submissions and rebuttals, and the recommendations of staff. The Commissioner finds and orders as follows:

FINDINGS OF FACT

1. At all relevant times, the Respondent was a corporation licensed by the Division to conduct all lines of property and casualty insurance, including workers' compensation insurance.
2. In accordance with §§ 10-1-201 to 207, C.R.S., on or about February 2, 2005, the Division completed a combined market conduct examination of the Respondent's Private Passenger Auto (PPA) and workers' compensation insurance business. The period of examination for PPA insurance covered July 1, 2003 to December 31, 2003. The period of examination for workers' compensation insurance covered January 1, 2002 to December 31, 2002.
3. In scheduling the market conduct examination and in determining its nature and scope, the Commissioner considered such matters as complaint analyses, underwriting and claims practices, pricing, product solicitation, policy form compliance, market share analyses, and other criteria as set forth in the most recent available edition of the examiners' handbook adopted by the National Association of Insurance Commissioners, as required by § 10-1-203(1), C.R.S.
4. In conducting the examination, the examiners observed those guidelines and procedures set forth in the most recent available edition of the examiners' handbook adopted by the National Association of Insurance Commissioners and the Colorado insurance examiners handbook. The Commissioner also employed

other guidelines and procedures that he deemed appropriate, pursuant to § 10-1-204(1), C.R.S.

5. The market conduct examiners prepared the Report. The Report is comprised of only the facts appearing upon the books, records, or other documents of the Respondent, its agents or other persons examined, or as ascertained from the testimony of the Respondent's officers or agents or other persons examined concerning Respondent's affairs. The Report contains the conclusions and recommendations that the examiners find reasonably warranted based upon the facts.
6. Respondent delivered to the Division written submissions and rebuttals to the Report.
7. The Commissioner has fully considered and reviewed the Report, all of Respondent's submissions and rebuttals, and all relevant portions of the examiner's work papers.

CONCLUSIONS OF LAW AND ORDER

8. Unless expressly modified in this final agency order (the "Order"), the Commissioner adopts the facts, conclusions and recommendations contained in the Report. A copy of the Report is attached to the Order and is incorporated by reference.
9. Issue A concerns the following violation: Failure, in some cases, to convert policies from No-Fault to Tort as required by Colorado insurance law. The Respondent shall provide documentation demonstrating that it has corrected its procedures in converting policies issued prior to July 1, 2003 from No-Fault Auto to the Tort System to ensure compliance with Colorado insurance law.
10. Issue B concerns the following violation: Failure to inform insureds of differences in coverage and premium difference as required when coverage was to be converted from No-Fault (PIP) to Tort. The Respondent shall provide documentation demonstrating that it has informed insureds of differences in coverage and premium difference when coverage was converted from No-Fault Auto to the Tort System to ensure compliance with Colorado insurance law.
11. Issue C concerns the following violation: Failure to obtain insureds consent to include medical payment coverage with Tort policies that replaced No-Fault (PIP) policies effective on and after July 1, 2003. The Respondent shall provide documentation demonstrating that it corrected its procedures and implemented a plan to ensure that the insured's consent is obtained before any medical payment coverage is added to a policy in compliance with Colorado insurance law.

12. Issue D concerns the following violation: Failure to submit the Annual Forms Certification by July 1 as required by Colorado insurance law. The Respondent shall provide documentation demonstrating that it has corrected its procedures and implemented a plan to ensure that all form filings are completed and certified to the Division by the required date to ensure compliance with Colorado insurance law. The Division's records indicate that the Respondent has complied with the corrective actions ordered concerning this violation.
13. Issue E concerns the following violation: Failure, in some cases, to maintain records required for market conduct examination purposes. The Respondent shall provide documentation demonstrating that it has established a maintenance and retrieval procedure for market conduct review and implemented necessary changes to ensure compliance with Colorado insurance law. The Division's records indicate that the Respondent has complied with the corrective actions ordered concerning this violation.
14. Issue F concerns the following violation: Failure to offer a named driver exclusion and complete explanation for the non-renewal on notices sent to insureds with PPA policies. The Respondent shall provide documentation demonstrating that it has revised its procedures to ensure that a named driver exclusion is offered and an adequate reason for the cancellation and/or non-renewal of policies is provided in compliance with Colorado insurance law. The Division's records indicate that the Respondent has complied with the corrective actions ordered concerning this violation.
15. Issue G concerns the following violation: Failure, in some cases, in the timely payment of PIP benefits. The Respondent shall provide documentation demonstrating that it has reviewed its claims handling of PIP benefit payments and implemented necessary procedural changes to ensure compliance with Colorado insurance law. The Division's records indicate that the Respondent has complied with the corrective actions ordered concerning this violation.
16. Issue H concerns the following violation: Failure, in some cases, to maintain records required when writing workers' compensation policies that contain Colorado exposures. The Respondent shall provide documentation demonstrating that it has revised its procedures to ensure required records are maintained when writing workers' compensation policies containing Colorado exposures in compliance with Colorado insurance law. The Division's records indicate that the Respondent has complied with the corrective actions ordered concerning this violation.
17. Issue I concerns the following violation: Failure to provide the insured with a form to indicate awareness of the premium differential available when an insured selects a cost containment option and a designated medical provider, and to retain this form in the insured's underwriting file. The Respondent shall provide

documentation that it has revised its procedures to ensure that it has retained a copy of a form in the insured's underwriting file indicating that the insured is aware of the premium differential available when choosing a medical cost containment option and/or when selecting a designated medical provider in compliance with Colorado insurance law. The Division's records indicate that the Respondent has complied with the corrective actions ordered concerning this violation.

18. Issue J concerns the following violation: Failure, in some cases, to audit insureds' records in order to calculate a correct earned premium. The Respondent shall provide documentation that it has revised its procedures to perform an audit to charge the actual premium rather than an estimated premium to ensure compliance with Colorado insurance law. The Division's records indicate that the Respondent has complied with the corrective actions ordered concerning this violation.
19. Issue K concerns the following violation: Failure, in some cases, to apply the correct rating methodology when rating workers' compensation policies that contain Colorado exposures. The Respondent shall provide documentation that it has revised its procedures to ensure that it has applied correct rating methodology when rating policies with Colorado exposures in compliance with Colorado insurance law. The Division's records indicate that the Respondent has complied with the corrective actions ordered concerning this violation.
20. Issue L concerns the following violation: Failure, in some cases, to transmit correct unit statistical report information to the NCCI. The Respondent shall provide documentation that it has revised its procedures to transmit corrected unit statistical report information to NCCI to ensure compliance with Colorado insurance law. Additionally, Respondent shall request that experience modification factors are recalculated by NCCI, and the corrected factors applied to all policies where classifications, deductibles or claim statistics were incorrectly reported.
21. Pursuant to § 10-1-205(3)(d), C.R.S., the Respondent shall pay a civil penalty to the Division in the amount of sixteen thousand and 00/100 dollars (\$16,000.00). This fine represents a combined fine for the cited violations of Colorado law. This fine was calculated in accordance with Division guidelines for assessing penalties and fines, including Division bulletin no. 1-98, issued on January 1, 1998.
22. Pursuant to § 10-1-205(4)(a), C.R.S., within sixty (60) days of the date of this Order, the Respondent shall file affidavits executed by each of its directors stating under oath that they have received a copy of the adopted report and related order.
23. Unless otherwise specified in this Order, all requirements with this Order shall be completed within thirty (30) days of the date of this Order. Respondent shall submit written evidence of compliance with all requirements to the Division within the thirty (30) day time frame, except where Respondent has already complied, as

specifically noted in the Order. Copies of any rate and form filings shall be provided to the rate and forms section with evidence of the filings sent to the market conduct section. All self-audits, if any, shall be performed in accordance with the Division's document, 'Guidelines for Self Audits Performed by Companies' presented at the market conduct examination exit meeting. Unless otherwise specified in this Order, all self-audit reports must be received within ninety (90) days of the Order, including a summary of the findings and all monetary payments to covered persons.

24. This Order shall not prevent the Division from commencing future agency action relating to conduct of the Respondent not specifically addressed in the Report, not resolved according to the terms and conditions in this Order, or occurring before or after the examination period. Failure by the Respondent to comply with the terms of this Order may result in additional actions, penalties and sanctions as provided for by law.
25. Copies of the examination report, the Respondent's response, and this final Order will be made available to the public no earlier than thirty (30) days after the date of this Order, subject to the requirements of § 10-1-205, C.R.S.

WHEREFORE: It is hereby ordered that the findings and conclusions contained in the final examination report dated February 2, 2005, are hereby adopted and filed and made an official record of this office and the above Order is hereby approved this 3rd day of June, 2005.



Kirk R. Yeager
Deputy Commissioner of Market Regulation

CERTIFICATE OF CERTIFIED MAILING

I hereby certify that on the 3rd day of June, 2005, I caused to be deposited the **FINAL AGENCY ORDER No. O-05-243 IN THE MATTER OF THE MARKET CONDUCT EXAMINATION OF FEDERAL INSURANCE COMPANY**, in the United States Mail via certified mailing with the proper postage affixed and addressed to:

Mr. Thomas F. Motamed, President
Federal Insurance Company
15 Mountain View Road
Warren, NJ 07059

Amelia C. Lynch
Federal Insurance Company
15 Mountain View Road
Warren, NJ 07059

A handwritten signature in black ink, reading "Dolores Arrington". The signature is written in a cursive style with a large initial "D".

Dolores Arrington, MA, AIRC, ACS
Market Conduct Section